

House File 675

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AN ACT

RELATING TO THE REGULATION OF ELDER FAMILY HOMES, ELDER GROUP HOMES, AND ASSISTED LIVING PROGRAMS, PROVIDING FOR FEES, AND PROVIDING PENALTIES.

1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 9

1 10 Section 1. Section 100.1, subsection 6, Code 2003, is
1 11 amended to read as follows:

1 12 6. To adopt rules designating a fee to be assessed to each
1 13 building, structure, or facility for which a fire safety
1 14 inspection or plan review by the state fire marshal is
1 15 required ~~as a condition of licensure by law~~. The fee
1 16 designated by rule shall be set in an amount that is
1 17 reasonably related to the costs of conducting the applicable
1 18 inspection or plan review. The fees collected by the state
1 19 fire marshal shall be deposited in the general fund of the
1 20 state.

1 21 Sec. 2. Section 135C.33, subsection 5, paragraph e, Code
1 22 2003, is amended to read as follows:

1 23 e. An employee of an assisted living facility program
1 24 ~~certified or voluntarily accredited~~ under chapter 231C, if the
1 25 employee provides direct services to consumers.

1 26 Sec. 3. Section 231B.1, subsection 4, Code 2003, is
1 27 amended to read as follows:

1 28 4. "Elder group home" means a single-family residence that
1 29 ~~is a residence of~~ operated by a person who is providing room,
1 30 board, and personal care to three through five elders who are
1 31 not related to the person providing the service within the
1 32 third degree of consanguinity or affinity.

1 33 Sec. 4. Section 231B.2, subsection 2, paragraph c, Code
1 34 2003, is amended to read as follows:

1 35 c. An elder group home shall be ~~owner-occupied, or owned~~
~~by a nonprofit corporation and occupied by a resident manager~~
2 2 ~~staffed by an on-site manager twenty-four hours per day, seven~~
2 3 ~~days per week. A resident manager shall reside in and provide~~
2 4 ~~services for no more than one elder group home.~~

2 5 Sec. 5. Section 231B.2, subsections 3 and 5, Code 2003,
2 6 are amended to read as follows:

2 7 3. An elder group home established pursuant to this
2 8 chapter shall be certified by the department of inspections
2 9 and appeals.

2 10 5. Inspections and certification services shall be
2 11 provided by the department of inspections and appeals.

2 12 ~~However, beginning July 1, 1994, the department may enter into~~
2 13 ~~contracts with the area agencies on aging to provide these~~
2 14 ~~services.~~

2 15 Sec. 6. Section 231B.3, subsection 2, Code 2003, is
2 16 amended to read as follows:

2 17 2. A person who has knowledge that an elder group home is
2 18 operating without certification shall report the name and
2 19 address of the home to the department of inspections and
2 20 appeals. The department of inspections and appeals shall

2 21 investigate a report made pursuant to this section.

2 22 Sec. 7. Section 231C.1, Code 2003, is amended to read as
2 23 follows:

2 24 231C.1 FINDINGS, ~~AND~~ PURPOSE, AND INTENT.

2 25 1. The general assembly finds that assisted living is an
2 26 important part of the long-term care system in this state.
2 27 Assisted living emphasizes the independence and dignity of the
2 28 individual while providing services in a cost-effective
2 29 manner.

2 30 2. The purposes of establishing an assisted living program
2 31 include all of the following:

2 32 a. To encourage the establishment and maintenance of a
2 33 safe and homelike environment for individuals of all income
2 34 levels who require assistance to live independently but who do
2 35 not require health-related care on a continuous twenty-four
3 1 hour per day basis.

3 2 b. To establish standards for assisted living programs
3 3 that allow flexibility in design which promotes a social model
3 4 of service delivery by focusing on individual independence,
3 5 individual needs and desires, and consumer-driven quality of

3 6 service.
3 7 c. To encourage general public participation in the
3 8 development of assisted living programs for individuals of all
3 9 income levels.

3 10 3. It is the intent of the general assembly that the
3 11 department of elder affairs establish policy for assisted
3 12 living programs and that the department of inspections and
3 13 appeals enforce this chapter.

3 14 Sec. 8. Section 231C.2, subsections 1 and 6, Code 2003,
3 15 are amended to read as follows:

3 16 1. "Assisted living" means provision of housing with
3 17 services which may include but are not limited to health=
3 18 related care, personal care, and assistance with instrumental
3 19 activities of daily living to ~~six~~ three or more tenants in a
3 20 physical structure which provides a homelike environment.
3 21 "Assisted living" also includes encouragement of family
3 22 involvement, tenant self-direction, and tenant participation
3 23 in decisions that emphasize choice, dignity, privacy,
3 24 individuality, shared risk, and independence. "Assisted
3 25 living" includes the provision of housing and assistance with
3 26 instrumental activities of daily living only if personal care
3 27 or health-related care is also included.

3 28 6. "Tenant" means an individual who receives assisted
3 29 living services through a certified ~~or accredited~~ assisted
3 30 living program.

3 31 Sec. 9. Section 231C.2, Code 2003, is amended by adding
3 32 the following new subsections:

3 33 NEW SUBSECTION. 2A. "Governmental unit" means the state,
3 34 or any county, municipality, or other political subdivision or
3 35 any department, division, board, or other agency of any of
4 1 these entities.

4 2 NEW SUBSECTION. 4A. "Legal representative" means a person
4 3 appointed by the court to act on behalf of the tenant, or a
4 4 person acting pursuant to a power of attorney.

4 5 NEW SUBSECTION. 4B. "Occupancy agreement" means a written
4 6 agreement entered into between an assisted living program and
4 7 a tenant that clearly describes the rights and
4 8 responsibilities of the assisted living program and a tenant,
4 9 and other information required by rule. "Occupancy agreement"
4 10 may include a separate signed lease and signed service
4 11 agreement.

4 12 NEW SUBSECTION. 5A. "Recognized accrediting entity" means
4 13 a nationally recognized accrediting entity that the department
4 14 recognizes as having specific assisted living program
4 15 standards equivalent to the standards established by the
4 16 department for assisted living programs.

4 17 NEW SUBSECTION. 6A. "Tenant advocate" means the office of
4 18 long-term care resident's advocate established in section
4 19 231.42.

4 20 NEW SUBSECTION. 7. "Tenant's representative" means a
4 21 tenant's legal representative or any representative authorized
4 22 by the tenant to act on behalf of the tenant.

4 23 Sec. 10. Section 231C.3, Code 2003, is amended by striking
4 24 the section and inserting in lieu thereof the following:

4 25 231C.3 CERTIFICATION OF ASSISTED LIVING PROGRAMS.

4 26 1. The department shall establish by rule in accordance
4 27 with chapter 17A, a program for certification and monitoring
4 28 of assisted living programs. The department may adopt by
4 29 reference with or without amendment, nationally recognized
4 30 standards and rules for assisted living programs. The rules
4 31 shall include specification of recognized accrediting entities
4 32 and provisions related to dementia-specific programs. The
4 33 standards and rules shall be formulated in consultation with
4 34 the department of inspections and appeals, and affected
4 35 industry, professional, and consumer groups and shall be
5 1 designed to accomplish the purposes of this chapter and shall
5 2 include but are not limited to rules relating to all of the
5 3 following:

5 4 a. Provisions to ensure, to the greatest extent possible,
5 5 the health, safety, and well-being and appropriate treatment
5 6 of tenants.

5 7 b. Requirements that assisted living programs furnish the
5 8 department of elder affairs and the department of inspections
5 9 and appeals with specified information necessary to administer
5 10 this chapter.

5 11 c. Standards for tenant evaluation or assessment, which
5 12 may vary in accordance with the nature of the services
5 13 provided or the status of the tenant.

5 14 d. Provisions for granting short-term waivers for tenants
5 15 who exceed occupancy criteria.

5 16 2. In addition to the adoption of standards and rules for

5 17 assisted living programs, the department in consultation with
5 18 the department of inspections and appeals and affected
5 19 industry, professional, and consumer groups, shall issue
5 20 interpretive guidelines, including the expectations of program
5 21 certification monitors, to provide direction to assisted
5 22 living programs in complying with certification requirements.

5 23 3. Each assisted living program operating in this state
5 24 shall be certified by the department of inspections and
5 25 appeals. If an assisted living program is voluntarily
5 26 accredited by a recognized accrediting entity, the department
5 27 of inspections and appeals shall certify the assisted living
5 28 program on the basis of the voluntary accreditation. An
5 29 assisted living program that is certified by the department of
5 30 inspections and appeals on the basis of voluntary
5 31 accreditation shall not be subject to payment of the
5 32 certification fee prescribed in section 231C.18, but shall be
5 33 subject to an administrative fee as prescribed by rule. An
5 34 assisted living program certified under this section is exempt
5 35 from the requirements of section 135.63 relating to

6 1 certificate of need requirements.

6 2 4. The owner or manager of a certified assisted living
6 3 program shall comply with the rules adopted by the department
6 4 for an assisted living program. A person including a
6 5 governmental unit shall not represent an assisted living
6 6 program to the public as an assisted living program or as a
6 7 certified assisted living program unless and until the program
6 8 is certified pursuant to this chapter.

6 9 5. a. Services provided by a certified assisted living
6 10 program may be provided directly by staff of the assisted
6 11 living program, by individuals contracting with the assisted
6 12 living program to provide services, or by individuals employed
6 13 by the tenant or with whom the tenant contracts if the tenant
6 14 agrees to assume the responsibility and risk of the employment
6 15 or the contractual relationship.

6 16 b. If a tenant is terminally ill and has elected to
6 17 receive hospice services under the federal Medicare program
6 18 from a Medicare-certified hospice program, the assisted living
6 19 program and the Medicare-certified hospice program shall enter
6 20 into a written agreement under which the hospice program
6 21 retains professional management responsibility for those
6 22 services.

6 23 6. The department of inspections and appeals may enter
6 24 into contracts to provide certification and monitoring of
6 25 assisted living programs. The department of inspections and
6 26 appeals shall:

6 27 a. Have full access at reasonable times to all records,
6 28 materials, and common areas pertaining to the provision of
6 29 services and care to the tenants of a program during
6 30 certification, monitoring, and complaint investigations of
6 31 programs seeking certification, currently certified, or
6 32 alleged to be uncertified.

6 33 b. With the consent of the tenant, visit the tenant's
6 34 unit.

6 35 c. Require that the recognized accrediting entity
7 1 providing accreditation for a program provide copies to the
7 2 department of all materials related to the accreditation,
7 3 monitoring, and complaint process.

7 4 7. The department may also establish by rule in accordance
7 5 with chapter 17A a special classification for affordable
7 6 assisted living programs. The rules shall be formulated in
7 7 consultation with the department of inspections and appeals
7 8 and affected industry, professional, and consumer groups.

7 9 8. A department, agency, or officer of this state or of
7 10 any governmental unit shall not pay or approve for payment
7 11 from public funds any amount to an assisted living program for
7 12 an actual or prospective tenant, unless the program holds a
7 13 current certificate issued by the department of inspections
7 14 and appeals and meets all current requirements for
7 15 certification.

7 16 9. The department shall adopt rules regarding the
7 17 conducting or operating of another business or activity in the
7 18 distinct part of the physical structure in which the assisted
7 19 living program is provided, if the business or activity serves
7 20 nontenants. The rules shall be developed in consultation with
7 21 the department of inspections and appeals and affected
7 22 industry, professional, and consumer groups.

7 23 10. An assisted living program shall comply with section
7 24 135C.33.

7 25 Sec. 11. Section 231C.4, Code 2003, is amended to read as
7 26 follows:

7 27 231C.4 FIRE AND SAFETY STANDARDS.

7 28 The state fire marshal shall adopt rules, in coordination
7 29 with the department of elder affairs and the department of
7 30 inspections and appeals, relating to the certification or
7 31 ~~voluntary accreditation~~ and monitoring of the fire and safety
7 32 standards of certified or ~~voluntarily accredited~~ assisted
7 33 living programs.

7 34 Sec. 12. Section 231C.5, Code 2003, is amended by striking
7 35 the section and inserting in lieu thereof the following:

8 1 231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

8 2 1. An assisted living program shall not operate in this
8 3 state unless a written occupancy agreement, as prescribed in
8 4 subsection 2, is executed between the assisted living program
8 5 and each tenant or tenant's representative, prior to the
8 6 tenant's occupancy, and unless the assisted living program
8 7 operates in accordance with the terms of the occupancy
8 8 agreement. The assisted living program shall deliver to the
8 9 tenant or tenant's representative a complete copy of the
8 10 occupancy agreement and all supporting documents and
8 11 attachments and shall deliver, at least thirty days prior to
8 12 any changes, a written copy of changes to the occupancy
8 13 agreement if any changes to the copy originally delivered are
8 14 subsequently made.

8 15 2. An assisted living program occupancy agreement shall
8 16 clearly describe the rights and responsibilities of the tenant
8 17 and the program. The occupancy agreement shall also include
8 18 but is not limited to inclusion of all of the following
8 19 information in the body of the agreement or in the supporting
8 20 documents and attachments:

8 21 a. A description of all fees, charges, and rates
8 22 describing tenancy and basic services covered, and any
8 23 additional and optional services and their related costs.

8 24 b. A statement regarding the impact of the fee structure
8 25 on third-party payments, and whether third-party payments and
8 26 resources are accepted by the assisted living program.

8 27 c. The procedure followed for nonpayment of fees.

8 28 d. Identification of the party responsible for payment of
8 29 fees and identification of the tenant's representative, if
8 30 any.

8 31 e. The term of the occupancy agreement.

8 32 f. A statement that the assisted living program shall
8 33 notify the tenant or the tenant's representative, as
8 34 applicable, in writing at least thirty days prior to any
8 35 change being made in the occupancy agreement with the
9 1 following exceptions:

9 2 (1) When the tenant's health status or behavior
9 3 constitutes a substantial threat to the health or safety of
9 4 the tenant, other tenants, or others, including when the
9 5 tenant refuses to consent to relocation.

9 6 (2) When an emergency or a significant change in the
9 7 tenant's condition results in the need for the provision of
9 8 services that exceed the type or level of services included in
9 9 the occupancy agreement and the necessary services cannot be
9 10 safely provided by the assisted living program.

9 11 g. A statement that all tenant information shall be
9 12 maintained in a confidential manner to the extent required
9 13 under state and federal law.

9 14 h. Occupancy, involuntary transfer, and transfer criteria
9 15 and procedures, which ensure a safe and orderly transfer. The
9 16 internal appeals process provided relative to an involuntary
9 17 transfer.

9 18 i. The program's policies and procedures for addressing
9 19 grievances between the assisted living program and the
9 20 tenants, including grievances relating to transfer and
9 21 occupancy.

9 22 j. A statement of the prohibition against retaliation as
9 23 prescribed in section 231C.13.

9 24 k. The emergency response policy.

9 25 l. The staffing policy which specifies if the staff is
9 26 available twenty-four hours per day, if nurse delegation will
9 27 be used, and how staffing will be adapted to meet changing
9 28 tenant needs.

9 29 m. In dementia-specific assisted living programs, a
9 30 description of the services and programming provided to meet
9 31 the life skills and social activities of tenants.

9 32 n. The refund policy.

9 33 o. A statement regarding billing and payment procedures.

9 34 3. Occupancy agreements and related documents executed by
9 35 each tenant or tenant's representative shall be maintained by
10 1 the assisted living program in program files from the date of
10 2 execution until three years from the date the occupancy
10 3 agreement is terminated. A copy of the most current occupancy

10 4 agreement shall be provided to members of the general public,
10 5 upon request. Occupancy agreements and related documents
10 6 shall be made available for on-site inspection to the
10 7 department of inspections and appeals upon request and at
10 8 reasonable times.

10 9 Sec. 13. Section 231C.6, Code 2003, is amended by striking
10 10 the section and inserting in lieu thereof the following:

10 11 231C.6 INVOLUNTARY TRANSFER.

10 12 1. If an assisted living program initiates the involuntary
10 13 transfer of a tenant and the action is not a result of a
10 14 monitoring evaluation or complaint investigation by the
10 15 department of inspections and appeals, and if the tenant or
10 16 tenant's representative contests the transfer, the following
10 17 procedure shall apply:

10 18 a. The assisted living program shall notify the tenant or
10 19 tenant's representative, in accordance with the occupancy
10 20 agreement, of the need to transfer, the reason for the
10 21 transfer, and the contact information of the tenant advocate.

10 22 b. The assisted living program shall provide the tenant
10 23 advocate with a copy of the notification to the tenant.

10 24 c. The tenant advocate shall offer the notified tenant or
10 25 tenant's representative assistance with the program's internal
10 26 appeals process. The tenant is not required to accept the
10 27 assistance of the tenant advocate.

10 28 d. If, following the internal appeals process, the
10 29 assisted living program upholds the transfer decision, the
10 30 tenant may utilize other remedies authorized by law to contest
10 31 the transfer.

10 32 2. The department, in consultation with the department of
10 33 inspections and appeals and affected industry, professional,
10 34 and consumer groups, shall establish, by rule in accordance
10 35 with chapter 17A, procedures to be followed, including the
11 1 opportunity for hearing, when the transfer of a tenant results
11 2 from a monitoring evaluation or complaint investigation
11 3 conducted by the department of inspections and appeals.

11 4 Sec. 14. NEW SECTION. 231C.7 COMPLAINTS.

11 5 1. Any person with concerns regarding the operations or
11 6 service delivery of an assisted living program may file a
11 7 complaint with the department of inspections and appeals. The
11 8 name of the person who files a complaint with the department
11 9 of inspections and appeals and any personal identifying
11 10 information of the person or any tenant identified in the
11 11 complaint shall be kept confidential and shall not be subject
11 12 to discovery, subpoena, or other means of legal compulsion for
11 13 its release to a person other than department of inspections
11 14 and appeals' employees involved with the complaint.

11 15 2. The department, in cooperation with the department of
11 16 inspections and appeals, shall establish procedures for the
11 17 disposition of complaints received in accordance with this
11 18 section.

11 19 Sec. 15. NEW SECTION. 231C.8 INFORMAL REVIEW.

11 20 If an assisted living program contests the regulatory
11 21 insufficiencies of a monitoring evaluation or complaint
11 22 investigation, the program shall submit written information,
11 23 demonstrating that the program was in compliance with the
11 24 applicable requirement at the time of the monitoring
11 25 evaluation or complaint investigation, in support of the
11 26 contesting of the regulatory insufficiencies, to the
11 27 department of inspections and appeals for review. The
11 28 department of inspections and appeals shall review the written
11 29 information submitted within ten working days of the receipt
11 30 of the information. At the conclusion of the review, the
11 31 department of inspections and appeals may affirm, modify, or
11 32 dismiss the regulatory insufficiencies. The department of
11 33 inspections and appeals shall notify the program in writing of
11 34 the decision to affirm, modify, or dismiss the regulatory
11 35 insufficiencies, and the reasons for the decision. In the
12 1 case of a complaint investigation, the department of
12 2 inspections and appeals shall also notify the complainant, if
12 3 known, of the decision and the reasons for the decision.

12 4 Sec. 16. NEW SECTION. 231C.9 PUBLIC DISCLOSURE OF
12 5 FINDINGS.

12 6 Following a monitoring evaluation or complaint
12 7 investigation of an assisted living program by the department
12 8 of inspections and appeals pursuant to this chapter, the
12 9 department of inspections and appeals' final findings with
12 10 respect to compliance by the assisted living program with
12 11 requirements for certification shall be made available to the
12 12 public in a readily available form and place. Other
12 13 information relating to an assisted living program that is
12 14 obtained by the department of inspections and appeals which

12 15 does not constitute the department of inspections and appeals'
12 16 final findings from a monitoring evaluation or complaint
12 17 investigation of the assisted living program shall not be made
12 18 available to the public except in proceedings involving the
12 19 denial, suspension, or revocation of a certificate under this
12 20 chapter.

12 21 Sec. 17. NEW SECTION. 231C.10 DENIAL, SUSPENSION, OR
12 22 REVOCATION == CONDITIONAL OPERATION.

12 23 1. The department of inspections and appeals may deny,
12 24 suspend, or revoke a certificate in any case where the
12 25 department of inspections and appeals finds that there has
12 26 been a substantial or repeated failure on the part of the
12 27 assisted living program to comply with this chapter or the
12 28 rules, or minimum standards adopted under this chapter, or for
12 29 any of the following reasons:

12 30 a. Cruelty or indifference to assisted living program
12 31 tenants.

12 32 b. Appropriation or conversion of the property of an
12 33 assisted living program tenant without the tenant's written
12 34 consent or the written consent of the tenant's legal guardian.

12 35 c. Permitting, aiding, or abetting the commission of any
13 1 illegal act in the assisted living program.

13 2 d. Obtaining or attempting to obtain or retain a
13 3 certificate by fraudulent means, misrepresentation, or by
13 4 submitting false information.

13 5 e. Habitual intoxication or addiction to the use of drugs
13 6 by the applicant, administrator, executive director, manager,
13 7 or supervisor of the assisted living program.

13 8 f. Securing the devise or bequest of the property of a
13 9 tenant of an assisted living program by undue influence.

13 10 g. Founded dependent adult abuse as defined in section
13 11 235B.2.

13 12 h. In the case of any officer, member of the board of
13 13 directors, trustee, or designated manager of the program or
13 14 any stockholder, partner, or individual who has greater than a
13 15 ten percent equity interest in the program, who has or has had
13 16 an ownership interest in an assisted living program, home
13 17 health agency, residential care facility, or licensed nursing
13 18 facility in any state which has been closed due to removal of
13 19 program, agency, or facility licensure or certification or
13 20 involuntary termination from participation in either the
13 21 medical assistance or Medicare programs, or who has been found
13 22 to have failed to provide adequate protection or services for
13 23 tenants to prevent abuse or neglect.

13 24 i. In the case of a certificate applicant or an existing
13 25 certified owner or operator who is an entity other than an
13 26 individual, the person is in a position of control or is an
13 27 officer of the entity and engages in any act or omission
13 28 proscribed by this chapter.

13 29 j. For any other reason as provided by law or
13 30 administrative rule.

13 31 2. The department of inspections and appeals may as an
13 32 alternative to denial, suspension, or revocation conditionally
13 33 issue or continue a certificate dependent upon the performance
13 34 by the assisted living program of reasonable conditions within
13 35 a reasonable period of time as set by the department of
14 1 inspections and appeals so as to permit the program to
14 2 commence or continue the operation of the program pending full
14 3 compliance with this chapter or the rules adopted pursuant to
14 4 this chapter. If the assisted living program does not make
14 5 diligent efforts to comply with the conditions prescribed, the
14 6 department of inspections and appeals may, under the
14 7 proceedings prescribed by this chapter, suspend, or revoke the
14 8 certificate. An assisted living program shall not be operated
14 9 on a conditional certificate for more than one year.

14 10 Sec. 18. NEW SECTION. 231C.11 NOTICE == APPEAL ==
14 11 EMERGENCY PROVISIONS.

14 12 1. The denial, suspension, or revocation of a certificate
14 13 shall be effected by delivering to the applicant or
14 14 certificate holder by restricted certified mail or by personal
14 15 service a notice setting forth the particular reasons for such
14 16 action. Such denial, suspension, or revocation shall become
14 17 effective thirty days after the mailing or service of the
14 18 notice, unless the applicant or certificate holder, within
14 19 such thirty-day period, requests a hearing, in writing, of the
14 20 department of inspections and appeals, in which case the
14 21 notice shall be deemed to be suspended.

14 22 2. The denial, suspension, or revocation of a certificate
14 23 may be appealed in accordance with rules adopted by the
14 24 department of inspections and appeals in accordance with
14 25 chapter 17A.

14 26 3. When the department of inspections and appeals finds
14 27 that an imminent danger to the health or safety of tenants of
14 28 an assisted living program exists which requires action on an
14 29 emergency basis, the department of inspections and appeals may
14 30 direct removal of all tenants of an assisted living program
14 31 and suspend the certificate prior to a hearing.

14 32 Sec. 19. NEW SECTION. 231C.12 DEPARTMENT NOTIFIED OF
14 33 CASUALTIES.

14 34 The department of inspections and appeals shall be notified
14 35 within twenty-four hours, by the most expeditious means
15 1 available, of any accident causing substantial injury or
15 2 death, and any substantial fire or natural or other disaster
15 3 occurring at or near an assisted living program.

15 4 Sec. 20. NEW SECTION. 231C.13 RETALIATION BY ASSISTED
15 5 LIVING PROGRAM PROHIBITED.

15 6 An assisted living program shall not discriminate or
15 7 retaliate in any way against a tenant, tenant's family, or an
15 8 employee of the program who has initiated or participated in
15 9 any proceeding authorized by this chapter. An assisted living
15 10 program that violates this section is subject to a penalty as
15 11 established by administrative rule in accordance with chapter
15 12 17A and to be assessed and collected by the department of
15 13 inspections and appeals and paid into the state treasury to be
15 14 credited to the general fund of the state.

15 15 Sec. 21. NEW SECTION. 231C.14 CIVIL PENALTIES.

15 16 The department may establish by rule, in accordance with
15 17 chapter 17A, civil penalties for the following violations by
15 18 an assisted living program:

15 19 1. Noncompliance with any regulatory requirements which
15 20 presents an imminent danger or a substantial probability of
15 21 resultant death or physical harm to a tenant.

15 22 2. Following receipt of notice from the department of
15 23 inspections and appeals, continued failure or refusal to
15 24 comply within a prescribed time frame with regulatory
15 25 requirements that have a direct relationship to the health,
15 26 safety, or security of program tenants.

15 27 Sec. 22. NEW SECTION. 231C.15 CRIMINAL PENALTIES AND
15 28 INJUNCTIVE RELIEF.

15 29 1. A person establishing, conducting, managing, or
15 30 operating any assisted living program without a certificate is
15 31 guilty of a serious misdemeanor. Each day of continuing
15 32 violation after conviction or notice from the department of
15 33 inspections and appeals by certified mail of a violation shall
15 34 be considered a separate offense or chargeable offense. A
15 35 person establishing, conducting, managing, or operating an
16 1 assisted living program without a certificate may be
16 2 temporarily or permanently restrained by a court of competent
16 3 jurisdiction from such activity in an action brought by the
16 4 state.

16 5 2. A person who prevents or interferes with or attempts to
16 6 impede in any way any duly authorized representative of the
16 7 department of inspections and appeals in the lawful
16 8 enforcement of this chapter or of the rules adopted pursuant
16 9 to this chapter is guilty of a simple misdemeanor. As used in
16 10 this subsection, lawful enforcement includes but is not
16 11 limited to:

16 12 a. Contacting or interviewing any tenant of an assisted
16 13 living program in private at any reasonable hour and without
16 14 advance notice.

16 15 b. Examining any relevant records of an assisted living
16 16 program.

16 17 c. Preserving evidence of any violation of this chapter or
16 18 of the rules adopted pursuant to this chapter.

16 19 Sec. 23. NEW SECTION. 231C.16 NURSING ASSISTANT AND
16 20 MEDICATION AIDE == CERTIFICATION.

16 21 The department of inspections and appeals, in cooperation
16 22 with other appropriate agencies, shall establish a procedure
16 23 to allow nursing assistants or medication aides to claim work
16 24 within an assisted living program as credit toward sustaining
16 25 the nursing assistant's or medication aide's certification.

16 26 Sec. 24. NEW SECTION. 231C.17 COORDINATION OF THE LONG=
16 27 TERM CARE SYSTEM == TRANSITIONAL PROVISIONS.

16 28 1. A hospital licensed pursuant to chapter 135B or a
16 29 health care facility licensed pursuant to chapter 135C may
16 30 operate an assisted living program, located in a distinct part
16 31 of or separate structure under the control of the hospital or
16 32 health care facility, if certified pursuant to this chapter.

16 33 2. This chapter shall not be construed to require that a
16 34 facility licensed as a different type of facility also comply
16 35 with the requirements of this chapter, unless the facility is
17 1 represented to the public as a certified assisted living

17 2 program.

17 3 3. A certified assisted living program that complies with
17 4 the requirements of this chapter shall not be required to be
17 5 licensed as a health care facility pursuant to chapter 135C,
17 6 unless the facility is represented to the public as a licensed
17 7 health care facility.

17 8 4. A continuing care retirement community that is in
17 9 compliance with chapter 523D shall not be held in violation of
17 10 this chapter if the continuing care retirement community
17 11 provides services to its independent living residents.

17 12 Sec. 25. NEW SECTION. 231C.18 IOWA ASSISTED LIVING FEES.

17 13 1. The department of inspections and appeals shall collect
17 14 assisted living program certification and related fees. An
17 15 assisted living program that is certified by the department of
17 16 inspections and appeals on the basis of voluntary
17 17 accreditation by a recognized accrediting entity shall not be
17 18 subject to payment of the certification fee, but shall be
17 19 subject to an administrative fee as prescribed by rule. Fees
17 20 collected and retained pursuant to this section shall be
17 21 deposited in the general fund of the state.

17 22 2. The following certification and related fees shall
17 23 apply to assisted living programs:

17 24 a. For a two-year initial certification, seven hundred
17 25 fifty dollars.

17 26 b. For a two-year recertification, one thousand dollars.

17 27 c. For a blueprint plan review, nine hundred dollars.

17 28 d. For an optional preliminary plan review, five hundred
17 29 dollars.

17 30 Sec. 26. NEW SECTION. 231C.19 APPLICATION OF LANDLORD
17 31 AND TENANT ACT.

17 32 Chapter 562A, the uniform residential landlord and tenant
17 33 Act, shall apply to assisted living programs under this
17 34 chapter.

17 35 Sec. 27. Section 235B.3, subsection 2, paragraph d, Code
18 1 2003, is amended to read as follows:

18 2 d. A person who performs inspections of elder group homes
18 3 for the department of ~~elder affairs inspections and appeals~~
18 4 and a resident advocate committee member assigned to an elder
18 5 group home pursuant to chapter 231B.

18 6 Sec. 28. Chapter 231A, Code 2003, is repealed.

18 7 Sec. 29. TRANSITION OF STAFF. All employees of the
18 8 department of elder affairs performing functions related to
18 9 certification and monitoring of or complaint investigations
18 10 related to assisted living programs as of June 30, 2003, shall
18 11 become employees of the department of inspections and appeals
18 12 without loss of classification, pay, or benefits, effective
18 13 July 1, 2003. All employees of the department of elder
18 14 affairs performing functions related to affordable assisted
18 15 living as of June 30, 2003, shall become employees of the Iowa
18 16 finance authority without loss of classification, pay, or
18 17 benefits, effective July 1, 2003.

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18 22 CHRISTOPHER C. RANTS
18 23 Speaker of the House

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18 27 MARY E. KRAMER
18 28 President of the Senate

18 29 I hereby certify that this bill originated in the House and
18 30 is known as House File 675, Eightieth General Assembly.

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18 34 _____
18 35 MARGARET THOMSON
18 36 Chief Clerk of the House

19 1 Approved _____, 2003

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19 6 THOMAS J. VILSACK
19 7 Governor